

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

CHARLESTON DIVISION

DAVID L. INGRAM,

Petitioner,

v.

CIVIL ACTION NO. 2:23-cv-00230

SHELBY SEARLS,

Respondent.

ORDER

This action was referred to United States Magistrate Judge Omar Aboulhosn for submission of proposed findings of fact and recommendations for disposition pursuant to 28 U.S.C. § 636. On December 26, 2023, Magistrate Judge Aboulhosn submitted his Proposed Findings & Recommendations [ECF No. 23] (“PF&R”) and recommended that the Court (1) deny Respondent’s Motion to Dismiss [ECF No. 12]; (2) grant Petitioner a stay, remove the case from the Court’s active docket so that the Petitioner may pursue his State court remedies, and condition the stay on Petitioner pursuing his State court remedies within sixty (60) days of the date that the order to stay is entered; and (3) hold Petitioner’s Section 2254 Petition [ECF No. 1] in abeyance pending exhaustion of State court remedies and require Petitioner to return to federal court within forty-five (45) days after he has exhausted his State court

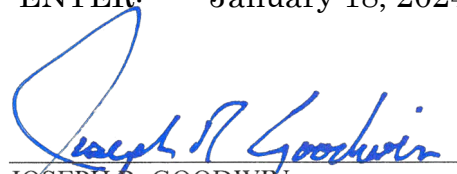
remedies and seek to lift the stay. Neither party timely filed objections to the PF&R and the deadline to do so has now passed.

A district court “shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” 28 U.S.C. § 636(b)(1)(C). This court is not, however, required to review, under a de novo or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. *Thomas v. Arn*, 474 U.S. 140, 150 (1985).

Because the parties have not filed objections in this case, the court adopts and incorporates herein the PF&R and orders judgment consistent therewith. The Court **DENIES** Respondent’s Motion to Dismiss, [ECF No. 12]. The Court **GRANTS** Petitioner a **STAY** and **DIRECTS** that this action be **REMOVED from the Court’s active docket** until further order of the Court, so that Petitioner may pursue his State court remedies for his unexhausted claims and that the stay be conditioned on Petitioner pursuing his State court remedies within **sixty (60) days** of the date that the order to stay is entered. Finally, the Court **DIRECTS** that Petitioner’s Section 2254 Petition, [ECF No. 1], be held in **ABEYANCE** pending exhaustion of State court remedies, and Petitioner be required to return to federal court within **forty-five (45) days** after he has exhausted his State court remedies and seek to lift the stay.

The court **DIRECTS** the Clerk to send a copy of this Order to counsel of record and any unrepresented party.

ENTER: January 18, 2024


JOSEPH R. GOODWIN
UNITED STATES DISTRICT JUDGE